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**FILED**

Date 2/4/13 By [Signature]  
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8  
9 **BEFORE THE**  
**STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF PESTICIDE REGULATION**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-32

13 **DARRELL LEE MCCAUL**  
13645 Fifth Street, Space #2  
14 Yucaipa, CA 92399

**ACCUSATION**

15 **Applicator License No. RA 40083**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Susan Saylor (Complainant) brings this Accusation solely in her official capacity as  
21 the Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of  
22 Pesticide Regulation.

23 2. On or about July 16, 2003, the Structural Pest Control Board issued Applicator  
24 License Number RA 40083 to Darrell Lee McCaul (Respondent). The Applicator License was in  
25 full force and effect at all times relevant to the charges brought herein and will expire on July 16,  
26 2015, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Structural Pest Control Board (Board), Department of Pesticide Regulation, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 8620 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

5. Section 8625 of the Code states:

The lapsing or suspension of a license or company registration by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license or company registration shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such licensee or company, or to render a decision suspending or revoking such license or registration.

## STATUTORY PROVISIONS

6. Section 478 of the Code states:

(a) As used in this division, "application" includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, "material" includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

7. Section 8637 of the Code states that "Misrepresentation of a material fact by the applicant in obtaining a license or company registration is a ground for disciplinary action."

8. Pursuant to section 8654 of the Code, if discipline is imposed on Applicator License Number 40083 issued to Respondent, Darrell Lee McCaul shall be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, and any registered company which employs, elects, or associates Darrell Lee McCaul shall be subject to disciplinary action.

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1 **COSTS**

2 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 **CAUSE FOR DISCIPLINE**

9 **(Misrepresentation of a Material Fact in a License Application)**

10 10. Respondent has subjected his Applicator License to disciplinary action under section  
11 8637 in that he used fraud, deceit, or a misrepresentation of a material fact or by knowingly  
12 omitting to state a material fact in his application for a Field Representative License. The  
13 circumstances are as follows:

14 a. Respondent signed his Application for Structural Pest Control Field  
15 Representative Examination (Branch 2) on April 2, 2011. By signing the application, Respondent  
16 certified under penalty of perjury under the laws of the State of California to the truth and  
17 accuracy of all statements and representations made in the application and that by falsifying  
18 information could result in the denial of his application.

19 b. Question 15 of the application asked: "Have you ever been convicted of a  
20 felony or of a misdemeanor other than minor traffic infractions?" In response to the question,  
21 Respondent marked the box labeled "NO." Respondent failed to declare the convictions  
22 described in paragraphs 11, 12, and 13, below.

23 c. After Respondent passed the Field Representative examination, on December  
24 27, 2011, Respondent signed the Application for Field Representative License (Branch 2), again  
25 certifying under penalty of perjury under the laws of the State of California to the truth and  
26 accuracy of all statements and representations made in the application and that by falsifying  
27 information could result in the denial of his application.

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1           d.    Question 9 of the application asked: "Have you ever been convicted of a felony  
2 or of a misdemeanor other than minor traffic infractions?" In response to the question,  
3 Respondent again marked the box labeled "NO." Respondent failed to declare the convictions  
4 described in paragraphs 11, 12, and 13, below.

5           11.   Conviction One:

6           a.    On or about June 2, 1995, in a criminal proceeding entitled *People of the*  
7 *State of California v. Darrell Lee McCaul*, in San Bernardino County Superior Court, case  
8 number FMB01188, Respondent was convicted on his plea of guilty to violating Penal Code  
9 section 498, subdivision (d), theft of (utility) services over \$400, and Health and Safety Code  
10 section 11377, subdivision (a), possession of a controlled substance, to wit, methamphetamine,  
11 felonies. The court dismissed two additional felony counts of residential burglary (Pen. Code, §  
12 459), pursuant to the plea agreement.

13           b.    Respondent was sentenced to 270 days in the San Bernardino County Jail,  
14 with credit for 21 days, suspended, and granted 36 months supervised probation. Respondent was  
15 further ordered to pay fines, fees, and restitution, complete a drug counseling program, complete  
16 a 12-hour Skill Development Program, abstain from illegal drugs, submit to drug testing, pay  
17 restitution to his victims, and comply with felony probation terms.

18           c.    The facts that led to the conviction are that on or about March 23, 1995, a  
19 deputy from the San Bernardino Sheriff's Department interviewed a couple at the residence they  
20 were caretaking for an elderly and mentally incompetent family member. They told the deputy  
21 that they had been out of town on a five-week vacation. On March 21, 1995, they received a  
22 telephone bill for \$840.49 for calls made during their absence. The deputy observed that there  
23 was an unsecured, exterior phone jack at the rear of the residence. On March 27, 1995, the  
24 investigator made contact with Respondent, the couple's neighbor. Respondent initially denied  
25 any knowledge of the incident, but eventually admitted he had used his neighbor's telephone jack  
26 to make calls to friends and to phone sex numbers. Respondent gave the deputy permission to  
27 search his residence and vehicle. The deputy found a telephone and an extension cord in  
28 Respondent's closet. In the kitchen, the deputy located a glass smoking pipe and a rock of a

1 white powdery substance which subsequently tested positive for methamphetamine. Inside the  
2 trunk of Respondent's vehicle they located a microwave stolen from another of Respondent's  
3 neighbors in December 1994. Following his arrest, Respondent also admitted to stealing  
4 additional household items from his neighbors.

5 12. Conviction Two:

6 a. On or about August 13, 1999, in a criminal proceeding entitled *People of*  
7 *the State of California v. Darrell Lee McCaul*, in San Bernardino County Superior Court, case  
8 number FMB03400, Respondent was convicted on his plea of guilty to violating Penal Code  
9 section 459, second degree commercial burglary, a felony. The court dismissed additional felony  
10 counts of second degree commercial burglary (Pen. Code, § 459), and receiving stolen property  
11 (Pen. Code, § 496(a)), pursuant to the plea agreement.

12 b. Respondent was sentenced to 270 days in the San Bernardino County Jail,  
13 with credit for 61 days, and granted supervised probation for 36 months. Respondent was further  
14 ordered to pay fines, fees, and restitution, complete a residential drug/alcohol program, abstain  
15 from illegal drugs, submit to drug testing, make restitution to the victim, and comply with felony  
16 probation terms. After a probation revocation hearing on March 24, 2000, the court ordered  
17 Respondent to serve 365 days in the San Bernardino County Jail with credit for 181 days. On  
18 July 9, 2002, Respondent's probation was revoked and he was sentenced to two years in state  
19 prison, with credit for 385 days.

20 13. Conviction Three:

21 a. On or about July 9, 2002, in a criminal proceeding entitled *People of the*  
22 *State of California v. Darrell Lee McCaul*, in San Bernardino County Superior Court, case  
23 number FMB005294, Respondent was convicted on his plea of nolo contendere to violating Penal  
24 Code section 289, subdivision (h), sexual penetration by a foreign object on a victim under the  
25 age of 18 years, a felony. The court dismissed two additional misdemeanors counts of  
26 annoy/molest children under 18 years (Pen. Code, § 647.6(a)), and sexual battery (Pen. Code, §  
27 243.4(d)(1)), pursuant to the plea agreement.

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1           b.       Respondent was sentenced to state prison for the low term of one year and  
2 four months, with credit for 19 days. The conviction was a violation of the probation imposed in  
3 case number FMB03400, described above, and the sentences were ordered to run concurrently.

4           c.       The facts that led to the conviction are that on or around December 2001,  
5 while Respondent was employed at a Yucca Valley fast food restaurant, he befriended a 16-year-  
6 old coworker. Respondent used sexually explicit language with the victim and would touch the  
7 victim without her permission. After several months, the victim's parents contacted the San  
8 Bernardino County Sheriff's Department and asked that a deputy make contact with Respondent  
9 and advise him to stop all non-work related contact with their daughter. A sheriff's deputy  
10 contacted Respondent at his residence; Respondent agreed to have no contact with the victim  
11 outside of work. After learning that Respondent's employment was terminated for the improper  
12 conduct, the deputy re-contacted Respondent on or about June 16, 2002 and warned Respondent  
13 that if he attempted to contact the victim in any way, he would be arrested for stalking. On June  
14 23, 2002, the victim confessed to the deputy that she and Respondent had a casual dating  
15 relationship for approximately three weeks. She had been to his residence three or four times.  
16 On the last occasion, against the victim's will, Respondent fondled her breasts and put his finger  
17 in her vagina.

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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Structural Pest Control Board issue a decision:

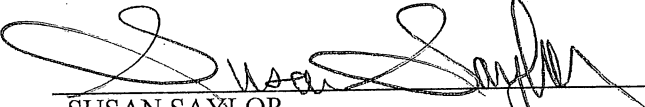
1. Revoking or suspending Applicator License Number RA 40083, issued to Darrell Lee McCaul;

2. That Darrell Lee McCaul be prohibited from serving as an officer, director, associate, partner, qualifying manager, or responsible managing employee for any registered company during the time the discipline is imposed, pursuant to Business and Professions Code section 8654;

3. Ordering Darrell Lee McCaul to pay the Structural Pest Control Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED: 5/11/13

  
SUSAN SAYLOR  
Interim Registrar/Executive Officer  
Structural Pest Control Board  
Department of Pesticide Regulation  
State of California  
*Complainant*

SD2012704683